

MINUTES
BOARD OF ADJUSTMENT
September 2, 2010

THOSE IN ATTENDANCE:

Gary Soule, Chairman
Victor Cohen
Mel Disney
Rick Bliss
Anne Bishop

Jason Jaggi, Senior Planner
Kevin O'Keefe, City Attorney

Chairman Soule called the meeting to order at 5:00 p.m. He welcomed everyone to the meeting, introduced himself and asked that the other members of the Board and staff introduce themselves.

Chairman Soule asked staff to introduce the City's new Planning Director.

Jason Jaggi asked the Board to welcome Susan Istenes, the City's new Planning Director. He indicated that she is from Collier County, Florida and started here in July.

Chairman Soule and the other members welcomed Susan.

Chairman Soule stated that the members of this Board are appointed by the Mayor and approved by the City's Board of Aldermen and serve without monetary compensation. He stated that the applicant must demonstrate practical hardship with regard to the property in order to justify the granting of a variance. He then advised that this is a duly advertised, duly noted meeting and that the proceedings are of record. He indicated that there is a full compliment of the Board this evening and that four members must vote in favor of the variance in order for it to be granted. He noted that there were two applications to be heard this evening and verified that the applicants were in attendance.

MINUTES

The minutes of the meeting of May 6, 2010 were presented for approval. Rick Bliss asked, for clarification purposes, that additional language be incorporated on Page 9 as follows: He asked that the sentence that read: "Kevin O'Keefe reminded the members that variances run with the land forever" be changed to "*Kevin O'Keefe replied that decision would be up to the members.*" He reminded the members that variances run with the land forever." He asked that a new sentence be added at the end to read "*A requirement for valet parking was not part of the motion.*" The minutes were then approved, as amended, after having been previously distributed to each member.

ANNUAL ELECTION OF CHAIRMAN AND VICE-CHAIR

Rick Bliss nominated Gary Soule to (continue to) serve as Chairman. The nomination was seconded by Mel Disney and unanimously approved by the Board.

Gary Soule nominated Mel Disney to (continue to) serve as Vice-Chairman. The nomination was seconded by Rick Bliss and unanimously approved by the Board.

A RE-APPLICATION FOR AN APPEAL FROM THEODORE DEARING, OWNER, REGARDING THE PROPERTY AT 211 S. CENTRAL AVE.

Theodore Dearing, owner, was in attendance at the meeting. .

Everyone wishing to speak this evening regarding the appeal was sworn in by the recording secretary.

Chairman Soule asked Jason Jaggi to provide an overview of the appeal.

Jason Jaggi began a PowerPoint presentation. He indicated that exactly 3 years ago this same appeal was applied for and approved. He stated that the owner is now ready to move forward with the project and that the City is anxious to see progress as this is a code enforcement issue. Jason then reminded the Board of the time limit on approvals, stating that approvals expire one year from date of approval if a building permit has not been secured.

A slide depicting the existing conditions of the subject garage was shown. A slide depicting the variance request was presented. Jason reiterated that the variance is the same as was requested and approved 3 years ago. He indicated that the architectural elements of the proposal have been adjusted slightly, but the number and sizes of the parking spaces remain the same as before. Jason then noted that the prior approval included a requirement for an additional 2 off-street parking spaces, and that Mr. Dearing has been and continues to lease four additional spaces.

Slides depicting an aerial map and site photos were presented.

Chairman Soule noted that code enforcement issues are not within the jurisdiction of this Board.

Jason Jaggi concurred.

Rick Bliss made reference to language contained on Page 5 of staff's report as follows: "Staff does not believe a variance to the full amount of the required parking is required." He asked why staff does not believe a variance to the full amount of the required parking is required.

Jason Jaggi indicated that it is a non-conforming building and the code requires the parking be maintained on or off-site. He stated that the full amount of required parking would be required for new construction.

Chairman Soule asked if the full number would be 22 spaces.

Jason Jaggi replied “yes”; he stated that the size of the lot would prohibit that number being accommodated.

Rick Bliss referred to the comment about proof of leased off-street spaces. He stated that the document provided looks to him like a one-month lease.

Jason Jaggi indicated that those off-street spaces as previously required by this Board haven been provided and maintained.

Kevin O’Keefe stated that if the owner fails to provide those spaces, occupancy of the building would have to be reduced.

Rick Bliss commented that he took a bit of exception to the word “proof”. He then noted the incorrect zip code of the architect on the variance application.

Mel Disney asked if the requirement for the two additional off-street parking spaces would be carried over from the previous approval, should this variance be approved again.

Kevin O’Keefe stated that it can be stipulated that the previous conditions of approval remain valid.

Chairman Soule asked if the City Attorney had any evidence to present.

City Attorney O’Keefe noted that the City had the following exhibits to offer into evidence:

1. City’s Code of Ordinances; specifically the section that deals with the Board of Adjustment and the provision sections cited;
2. Files and records of September, 2007 (previous application/approval);
3. City’s (current) file which includes the application, correspondence, staff’s report and plans.

Chairman Soule asked Mr. Dearing if he had an exhibits to present into evidence.

Mr. Dearing replied “no”.

Chairman Soule asked if there were any objections to these exhibits.

None were received.

Chairman Soule noted that since there are no objections, these exhibits will be entered into the record.

Mr. Dearing apologized to the members for having to come back again for this request. He stated he feels bad that the project has not been completed before now. He indicated that he is not only the owner of the property, but a tenant in the building. He stated that a number of things have delayed the project, including the contractor stating that the project cannot be built the way the architect had drawn it. He indicated that he hopes to have a contract signed with McCarthy very soon and hopes to have the project completed by the end of the year, maybe by the end of October. He stated that he realizes the project has to go before the City's Architectural Review Board before building permits can be pulled. He stated that he does not know if a long-term lease is available for the County garage, but that he is leasing 7 spaces and will continue to do so. He indicated that the number of available spaces was adequate before, but he is willing to lease two more if necessary. He stated that the size of the spaces is the same as proposed before, 8 X 18. He thanked the Board for their reconsideration and again apologized for having to come back.

Being no further questions or comments, Chairman Soule made a motion to grant a variance from Section 405.170 of the zoning code of two parking spaces to allow a reduction in the number of existing parking spaces from 16 to 14. The motion was seconded by Anne Bishop and unanimously approved by the Board.

Chairman Soule made a motion to grant a variance from Section 405.390 (definitions) to allow a reduction in the parking space size from 9' X 18' to 8' X 18. The motion was seconded by Anne Bishop and unanimously approved by the Board.

The variances were granted.

Chairman Soule wished Mr. Dearing good luck with the project.

Mr. Dearing thanked the Board.

Chairman Soule indicated that staff had an announcement.

Jason Jaggi informed the members that he would like to reschedule next month's meeting from the regular meeting date of the 7th to the 14th, as he will be out of town on the 7th. He stated that Kathy Scott, Planning Dept. Secretary/Recording Secretary to the Board, will send an e-mail to all the members tomorrow asking to check their calendars to be sure we would have a quorum on the 14th.

Chairman Soule stated that he will pencil-in that date.

Jason Jaggi stated that the deadline to get on the October agenda is tomorrow; so far the City has received one application for this meeting. Jason informed the members that with regard to 7401 Maryland Avenue, the portion of that property for which the proposed construction (porch enclosure) will take place was determined to be in University City and that is why it was removed from this agenda. Jason informed the members that the Wydown Middle School project

is generating a lot of interest and informed the members that legally, variances are not required as that is a public school. Additionally, the project will only have to go through a limited City approval process. He stated that no formal plans have been submitted as of yet. Jason indicated that the school district has held meetings and that information is available on their web-site.

Being no further business for the Board of Adjustment, this meeting adjourned at 5:45 p.m.

Recording Secretary